

REMARKS

By this amendment, Applicant has cancelled the non-elected claim 36.

In paragraph 5 of the Office Action, the Examiner rejected claims 1, 3, 4, 6, 7, 10, 14, 17, 19, 20, 24, 26, 30, 33, 34 and 35 under 35 USC §102(b) as being anticipated by Cady (US 5,628,135). In view of the claims as now presented and for the reasons described below, Applicant believes that these claims are not anticipated by Cady.

Cady discloses a gun support comprising a base having a front end and a rear end, a front leg support assembly longitudinally movable between the front end and the rear end and having a pair of front support legs, and a rear leg support assembly at the rear end having a rear support leg. A gun forearm rest assembly is mounted to the front end of the base, and a gun butt support assembly is mounted to the rear end of the base. The front leg support assembly is so constructed that the front legs are longitudinally movable relative to the rear leg support assembly and the gun forearm rest assembly, and so that the front legs are pivotable between downward and outward support positions and inward collapsed positions. The base is so constructed that the rear leg support assembly is longitudinally movable so that the rear leg is longitudinally movable relative to the gun forearm rest assembly, and so that the rear leg is pivotable between a downward and outward support position and an inward collapsed position. Note in Fig. 6, the single leg 38 provides the Cady device with three-point contact, which means that the ends of legs 50, 52 and 38 provide a three-point base.

In contrast, Applicant has amended its independent claims 1 and 17 to provide that the front support and the rear support both have at least two point contacts so that the gun rest has at least four point of contact. As stated in paragraph 0022 of Applicant's disclosure, providing the plurality of contacts 60 – 66 on the support 12 and the support 36 has been found to improve the stability of the device during shooting. This improves over the prior art three-point systems, such as the Cady system cited by the Examiner, and provides for a more stable gun rest. Applicant's molded or plastic or polymer material is light-weight and does not provide other means for stabilizing the

device once it is situated on a surface, such as clamps, sandbags or the like as stated in paragraph 0023 of Applicant's specification.

Moreover, Applicant respectfully directs the Examiner's attention to claim 1 which recites that the second support distance (which is the distance between two supports on the rear support) is less than the first support distance which means that the points of contacts on the rear portion of the gun rest are separated by a smaller distance than the points of contact on the first portion of the support. Claim 17 recites that the first and second supports are arranged to define a trapezoid and the support is molded from a polymer.

None of the references show the differences in the support distances as recited in Applicant's claim 1 or the trapezoid configuration as referred to in claim 17.

The Examiner's attention is respectfully directed to Fig. 6 which shows one embodiment of the points of contact 60 – 66, which Applicant states in paragraph 0022 that Applicant has found this arrangement of support contacts to provide improved stability to the gun rest. None of these features are shown by any of the references, when viewed either alone or in combination.

Thus, Applicant has amended its independent claims 1 and 17 to further focus on this concept of improving stability by providing that both the front and rear supports define a plurality of contacts for providing the improved stability. Applicant has further amended the independent claims to state that at least four points of contact are provided. In view of the claims as now presented and for the reasons discussed above, Applicant believes that the rejected claims are not anticipated by the cited references.

In paragraph 6 of the Action, the Examiner rejected claims 1, 2, 5 – 7, 11, 13 and 15 under 35 USC § 102(b) as being anticipated by McClure et al. (US 5,933,999). In view of the claims as now presented and for the reasons mentioned above and also for the following reasons, Applicant believes that the claims as now presented are not anticipated by McClure et al.

McClure discloses a gun rest that includes an arcuate elongate rocker member having a first substantially U-shaped bracket at one end thereof for supporting the barrel

of the firearm and a second substantially U-shaped bracket at the other end for supporting the firearm forward of the trigger or receiver thereof, the rocker member being pivotally attached to a yoke and rotatably mounted on a vertical support member having structure thereon for attachment to a vehicle or otherwise anchored at a selected other location.

Note that the McClure reference is intended to be attached or mounted to, for example, a vehicle and fails to provide or teach of a multi-point contact system. Thus, the reference is not inherently capable of operating and functioning as recited in Applicant's amended independent claims and the dependent claims that depend therefrom. The reference also fails to teach of all the structural limitations of the claims as explained above and therefore, the limitations are not inherent in the reference. For the reasons stated above relative to the Cady reference, in view of the claims as now presented, Applicant believes that these claims are not anticipated by McClure et al. and should be allowed.

In paragraphs 7 – 9 of the Office Action, the Examiner rejected claims 9, 12, 16, 18, 21, 23, 27, 28, 29, 31 and 32 under 35 USC § 103(a) as being unpatentable over Cady in view of either McClure et al., or Jacobs (US D471,248) and Cabalas. In view of the independent claims as now presented and for the reasons stated earlier herein relative to the Examiner's rejections under Cady and McClure et al. Applicant believes that the rejected claims are not obvious over the McClure et al. and Cady references when viewed alone or in combination with the other cited references.

In addition to the arguments above, Applicant further respectfully submits that the combination of the references as suggested by the Examiner would appear to destroy the teaching of either one or both of the references. For example, there is no suggestion in Cady which suggests that it be molded or that the features of McClure be combined with it. Even if it were obvious to combine these references, which Applicant believes it is not, the resultant combination would appear to change the shooting support of Cady to a support that is mounted to a vehicle, which is what the goal of the

McClure et al. reference appears to be. This appears to teach away from a multi-point system.

Regarding the Jacobs and Cabalas references, again there is no teaching in Cady which suggests that these references be combined with Cady and even if it were obvious to combine these references, the resulting combination would still fail to teach of a gun support having at least four contact points. Thus, even it were obvious to combine these references, which Applicant believes it is not, the resulting combination would still fail to teach of Applicant's claims 1 and 17, for example. Note, for example, the Cabalas reference discloses a three-point contact system and Jacobs also fails to teach of a four-point system of a system having front and rear supports with a plurality of contact or support points. Thus, even if it were obvious to combine these references with either Cady or McClure et al., the resulting combination fails to teach of Applicant's independent claims 1 and 17. For all the foregoing reasons and for the reasons discussed earlier herein relative to the Examiner's other rejections, Applicant believes that the rejected claims are neither anticipated by nor obvious in view of the cited references, when viewed alone or in combination. Accordingly, independent claims 1 and 17 should be allowed.

Applicant notes that dependent claims 2 – 16 and 18 – 35 contain limitations in addition to the limitations of their respective claims and any intervening claims and accordingly these claims are also neither anticipated by nor made obvious in view of the cited references. These claims are also now in condition for allowance and such allowance is respectfully requested.

Applicant is filing concurrently under separate cover a request for a two month extension of time.

The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to **Deposit Account No. 50-1287**. Applicant hereby provides a general request for any extension of time which may be required at any time during the prosecution of the application. The Commissioner is also authorized to charge any fees

Serial No. 10/700265
Amendment Dated May 3, 2005
Reply to Office Action of December 3, 2004

which have not been previously paid for by check and which are required during the prosecution of this application to **Deposit Account No. 50-1287**. (Should Deposit Account No. 50-1287 be deficient, please charge any further deficiencies to Deposit Account No. 10-0220.)

Applicant invites the Examiner to contact the undersigned via telephone with any questions or comments regarding this case.

Reconsideration and favorable action are respectfully requested.

Respectfully submitted,

JACOX, MECKSTROTH & JENKINS

By: 

Matthew R. Jenkins

Reg. No. 34,844

MRJ:rl
2310 Far Hills Building
Dayton, OH 45419-1575
(937)298-2811
May 3, 2005